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International Covenant on Civil and Political Rights

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Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2267/2013*, **

Communication submitted by	Lounes Khelifati (represented by the Collectif des familles de disparu(e)s en Algérie)
Alleged victim	Youcef Khelifati (author's son) and the author himself
State party	Algeria
Date of communication	8 March 2013 (initial submission)
Document references	Decision taken pursuant to rules 92 and 97 of the Committee's rules of procedure, transmitted to the State party on 11 July 2013 (not issued in document form)
Date of adoption of Views	28 July 2017
Subject matter	Enforced disappearance
Procedural issues	Exhaustion of domestic remedies
Substantive issues	Right to an effective remedy; prohibition of cruel, inhuman or degrading treatment or punishment; right to liberty and security of person; respect for the inherent dignity of the human person; recognition as a person before the law
Articles of the Covenant	2 (2) and (3), 6, 7, 9, 10 and 16
Articles of the Optional Protocol	2 and 5 (2) (b)

1. The author of the communication, dated 8 March 2013, is Lounis Khelifati, a national of Algeria residing in Dellys, wilaya (governorate) of Boumerdès, Algeria. He claims that his son Youcef Khelifati, born on 9 October 1967 and also an Algerian national, is the victim of enforced disappearance attributable to the State party, in violation of articles 2 (2) and (3), 6, 7, 9, 10 and 16 of the Covenant. The author claims that he himself is the victim of a violation of article 2 (2), and of article 7 read in conjunction with article 2 (3), of the Covenant. The

* Adopted by the Committee at its 120th session (3-28 July 2017).

** The following members of the Committee participated in the examination of the communication: Tania Maria Abdo Rocholl, Yadh Ben Achour, Ilze Brands Kehris, Sarah Cleveland, Ahmed Amin Fathalla, Olivier de Frouville, Christof Heyns, Yuji Iwasawa, Bamariam Koita, Marcia V.J. Kran, Duncan Laki Muhumuza, Photini Pazartzis, Mauro Politi, José Manuel Santos Pais, Yuval Shany and Margo Waterval.

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Covenant and the Optional Protocol to the Covenant entered into force for the State party on 12 December 1989. The author is represented by the Collectif des familles de disparu(e)s en Algérie.

The facts as submitted by the author

2.1 On 20 June 1994, at approximately 5.30 a.m., a large number of police officers surrounded the Khelifati family home. The officers, who were armed and wearing balaclavas and "Ninja" combat dress, belonged to the anti-terrorist squad. Four of them entered the courtyard through the garden. There, they found Youcef Khelifati performing his ablutions before prayers, set about him and threatened to kill him if he moved. They took a sheet that was hanging in front of the house and put it over the victim's head. Awakened by the noise, the author came down to ask the police officers why they were arresting his son. The officers ordered him back into the house, threatening to shoot him. At that moment, the author recognized the voice of B., the detective superintendent of the criminal investigation task force in Dellys.

2.2 One person witnessed the scene. The police officers left on foot, taking Youcef Khelifati to the Mesrour Ali school, where a white Peugeot 205 was parked. They put the victim in the trunk of the car and drove off. Two other neighbours witnessed his arrest.

2.3 At 7 a.m., that same day, the author went to the police station in Dellys to find out why his son had been arrested. The white Peugeot 205 was parked there. The author recognized Superintendent B., who was wearing the same clothing that he had worn during the arrest. The superintendent flatly denied that Youcef Khelifati had been arrested.

2.4 The next day, the same police officers who had arrested Youcef came back with army units to comb the neighbourhood and forest and to search the house. Over the following years, up until 2000, the police came back to search the family home about every 10 days, without giving the family any explanation as to what they were looking for or to what end.

2.5 On several occasions, inhabitants of Dellys were summoned and questioned about Youcef Khelifati at the Ben Aknoun barracks by plain-clothes police officers. In the author's opinion, this demonstrates that the police transferred Youcef to the Intelligence and Security Department — the political police in Algeria better known as "military security".

2.6 On 11 October 1994, the author received a telex from the National Human Rights Observatory (the country's national human rights institution), informing him that, according to the Directorate General of National Security, Youcef Khelifati, an "active terrorist", had been killed in July 1994 by the security forces in the mountains of Dellys. The author has always challenged this statement, which he considers to be false given that his son was arrested in front of him.

2.7 The author's determination to find out the truth has caused harm to the entire family. The Algerian authorities hounded the family, repeatedly harassing and intimidating them. For example, the office where the victim worked was destroyed on the order of the municipal authorities and the water supply to the family home was unexpectedly cut off. In addition, the authorities went after Mohamed Khelifati, Youcef's younger brother, who was 15 at the time of the events, and subjected him to downright judicial harassment. On several occasions, Mohamed was arrested, carried off and interrogated by naval officers. He suffered physical violence, and, as they beat him, they threatened to "do the same thing" to him that they had done to his brother. According to the author, all these reprisals are the direct consequence of his determination to find out what had happened to his son Youcef. The author adds that the pressure on the family continues to this day and that he very frequently receives letters from various authorities, including the governor of Boumerdès, strongly encouraging him to seek compensation. The governor, knowing that the author is illiterate, even tried to trick him by urging him to sign a death certificate for his disappeared son. To this day, the author refuses point blank to file an application for compensation, which would imply an acknowledgement of the victim's death.

2.8 The author has contacted the country's highest authorities in order to find his son. Immediately after the victim's arrest, the author lodged a complaint with the National Human Rights Observatory. He also sent one complaint to the former President, Liamine Zeroual, on

18 April 1998, three to the Office of the Ombudsman and one to the Minister of Justice. He received several replies from various authorities and was invited to a meeting by the Observatory on 30 December 1998 and by its successor, the National Advisory Commission for the Promotion and Protection of Human Rights, on 4 February 2003. He also received two letters from the chief of the district of Dellys (dated 24 April 2006 and 11 April 2007). In addition, the Head of Government wrote to him on 20 November 2006 informing him that his request had been transmitted to the Commission.

2.9 On 20 February 2008, the author sent another letter to the President of the Republic, Abdelaziz Bouteflika. On 12 March 2008, he wrote to the Minister of Justice, the Minister of the Interior, the governor of Boumerdès and the Commission. Aside from the letter from the Head of Government, dated 18 May 2008, informing him that his letter had been transmitted to the Commission, the author has not received any pertinent reply and all his efforts have been in vain.[1]

2.10 The author also had recourse to the courts. On 18 April 1998, he filed complaints with the prosecutor general of the Algiers Court of Justice and the public prosecutor at the Dellys Court with requests for searches to be mounted in order to locate Youcef Khelifati.

2.11 Further to the complaints, the author was summoned on 7 June 1998 to appear before the public prosecutor attached to the Dellys Court in a letter dated 31 May 1998, but the complaint was rejected. The file was transferred to the investigating judge of the Blida Military Court, and the author was then summoned to appear before that court on 20 February 2000. However, the author was to learn from a record of proceedings dated 10 February 2001 that he could call on the court within 24 hours to find that the case had been dismissed.

2.12 On 1 February 2003, the author was summoned to appear before the prosecutor general of the Algiers Court of Justice. Although he appeared, no action was taken on the case.

2.13 On 2 June 2007, the governor of Boumerdès sent a letter to the author, urging him to accept the compensation offered and to stop requesting information on his son's fate. The author replied on 27 June 2007, emphatically refusing any compensation until he obtained the truth about his son's fate. On 29 August 2007, the Office of the President also sent the author a letter, inviting him to go to the court nearest his home to file an application for compensation. Subsequently, the governor sent two telexes, on 7 February and 13 June 2009, in which the author was invited to the reception and counselling office to prepare a compensation application. The author has found this hounding so intolerable that he has gone before these authorities on several occasions to make it clear in person that he did not want any compensation, as the one thing that mattered to him was to know the fate of his son.

2.14 A certificate of disappearance was issued to the author on 27 August 2006 by the police station in Dellys. Two new complaints were then filed with the public prosecutor at the Dellys Court, on 20 June 2007 and 12 March 2008. However, the public prosecutor decided to take no further action on them. On 29 November 2011, following the death of Superintendent B., who had been involved in the victim's arrest on 20 June 1994, the prosecutor decided to close the case.

2.15 The case of Youcef Khelifati was submitted to the Working Group on Enforced or Involuntary Disappearances on 9 December 2002.

The complaint

3.1 The author claims that Youcef Khelifati is the victim of enforced disappearance attributable to the State party as defined under article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance. The author considers that his son's enforced disappearance since 20 June 1994 constitutes the following: (a) a violation of articles 2 (2) and (3), 6, 7, 9, 10 and 16 of the Covenant, with regard to Youcef Khelifati; and (b) a violation of article 2 (2), and of article 7 read in conjunction with article 2 (3), of the Covenant, with regard to the author and his family.

[1] All the letters are included in the file.

3.2 The author considers that Order No. 06-01 of 27 February 2006 [2] on the implementation of the Charter for Peace and National Reconciliation constitutes a violation of the general obligation under article 2 (2) of the Covenant, in that the provision entails a negative obligation for States to refrain from adopting measures that are contrary to the Covenant. By adopting the Order, the State party is thus alleged to have taken a legislative measure that vitiates the rights under the Covenant,[3] in particular the right to an effective remedy against human rights violations. The author claims that he and his son have been the victims of this provision of the law and that article 2 (2) of the Covenant has been violated in this case.

3.3 Recalling that all domestic remedies, both judicial and administrative, have been exhausted, without any result or any real investigation having been conducted, the author claims that, under article 2 (3), the State party had the obligation to protect his son, Youcef Khelifati, from violations of his rights by government officials. Referring to the Committee's jurisprudence,[4] the author also claims that the failure to investigate allegations of violations could, in and of itself, give rise to a separate violation of the Covenant and that the mere denial of the involvement of the security services cannot satisfy the State party's obligation under article 2 (3), given that the only response from the authorities petitioned was either silence or a dismissal of the case. The author concludes that article 2 (3) of the Covenant was violated with regard to Youcef Khelifati.

3.4 Regarding article 6, the author notes that, since Youcef's arrest in 1994 and in the absence of any information, the chances of finding him grow slimmer by the day and that his prolonged absence would suggest that he has died. Moreover, incommunicado detention represents a high risk of a violation of the right to life given that neither detainees nor jailers are monitored in any way. Noting that the Committee's jurisprudence in the context of enforced disappearances[5] has evolved and that it now recognizes the responsibility of the State for violations of the right to life in certain cases where the death of the victim has not been established, the author claims that the State party has failed in its duty to protect the right to life of his son and that article 6 of the Covenant has therefore been violated.

3.5 Recalling the circumstances of his son's disappearance, namely the total lack of information on his possible detention or imprisonment or on his state of health and the lack of communication with his family or the outside world, the author contends that Youcef Khelifati was subjected to inhuman or degrading treatment. Furthermore, in reference to the Committee's jurisprudence, the author emphasizes that the anguish, uncertainty and distress caused by Youcef Khelifati's disappearance constitute a form of inhuman or degrading treatment for the family. The author claims that the State party is responsible for a violation of article 7, with regard to Youcef Khelifati, and a violation of article 7 read in conjunction with article 2 (3), of the Covenant, with regard to his family.

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[2] Order No. 06-01 of 27 February 2006 provides for the implementation of the Charter for Peace and National Reconciliation. Article 45 of the Order provides that "no individual or collective legal proceedings may be brought against members of any branch of the defence and security forces of the Republic for actions undertaken to protect persons and property, safeguard the nation and preserve the institutions of the People's Democratic Republic of Algeria." The Committee has developed constant jurisprudence with respect to the Order, considering that it contributes to impunity (see, for example, communication No. 2083/2011, *Kroumi v. Algeria*, Views adopted on 30 October 2014, para. 8.2). In its concluding observations on the third periodic report of Algeria (see CCPR/C/DZA/CO/3, para. 7), the Committee expressed its concern that the Order promotes impunity and infringes the right to an effective remedy.

[3] In support of his arguments, the author refers to the concurring individual opinions of Fabián Salvioli, specifically arguments in the case of *Chihoub v. Algeria*, communication No. 1811/2008, Views adopted on 31 October 2011.

[4] Communication No. 1588/2007, *Benaziza v. Algeria*, Views adopted on 26 July 2010, para. 9.9.

[5] In support of that argument, the author cites communications No. 1753/2008, *Guezout et al. v. Algeria*, Views adopted on 19 July 2012, para. 8.4; No. 1905/2009, *Khirani v. Algeria*, Views adopted on 26 March 2012 and corrigendum, para. 7.4; No. 1781/2008, *Djebrouni v. Algeria*, Views adopted on 31 October 2011, para. 8.4; and No. 1780/2008, *Aouabdia v. Algeria*, Views adopted on 22 March 2011, para. 7.10.

3.6 Recalling that Youcef Khelifati was arrested without a warrant on 20 June 1994 by police officers of the anti-terrorist squad, that he was then held incommunicado without access to a lawyer, without being informed of the grounds for his arrest or of the charges against him, that his detention was not entered into the police custody register and that there is no official record of his whereabouts or fate, the author states that Youcef Khelifati was deprived of his right to liberty and security of person and that the investigations were not as efficient or effective as they should have been. Accordingly, the author contends that the State party is responsible for a violation of article 9 of the Covenant with regard to Youcef Khelifati.

3.7 In the light of the disappearance, the lack of a thorough investigation and the fact that enforced disappearance is often followed by incommunicado detention, the author considers that the State party is also responsible for a violation of article 10 of the Covenant with regard to Youcef Khelifati.

3.8 Recalling that the Algerian authorities have never provided clear information on Youcef Khelifati's fate and that they intentionally denied him the protection of the law, the author claims that the victim's dignity and legal personality have been flouted, in violation of his right to recognition as a person before the law, as guaranteed under article 16 of the Covenant.

3.9 The author requests the Committee to order the State party to: (a) find that Algeria has violated articles 2 (2) and (3), 6, 7, 9, 10 and 16 of the Covenant, with regard to Youcef Khelifati, and article 2 (2), together with article 7 read in conjunction with article 2 (3), with regard to the author and his family; (b) locate Youcef Khelifati; (c) bring the perpetrators of the enforced disappearance before the competent civil authorities for prosecution; and (d) provide Youcef Khelifati, if he is still alive, and his family with adequate, effective and prompt reparation for harm suffered, including appropriate compensation commensurate with the seriousness of the case, full rehabilitation and guarantees of non-recurrence.

State party's failure to cooperate

4. On 11 July 2013, 28 February 2014, 17 June 2014 and 20 November 2014, the State party was requested to submit its observations on the admissibility and merits of the communication. The Committee notes that this information has not been received. It regrets the State party's refusal to provide any information on the admissibility and/or merits of the author's claims. It recalls[6] that, in accordance with article 4 (2) of the Optional Protocol, the State party concerned is required to submit to the Committee written explanations or statements clarifying the matter and indicating the measures, if any, that have been taken by the State to remedy the situation.

Issues and proceedings before the Committee

Consideration of admissibility

5.1 Before considering any claim contained in a communication, the Human Rights Committee must decide, in accordance with rule 93 of its rules of procedure, whether the communication is admissible under the Optional Protocol to the Covenant.

5.2 As required under article 5 (2) (a) of the Optional Protocol, the Committee has ascertained that the same matter is not being examined under another procedure of international investigation or settlement. The Committee notes that the disappearance was reported to the Working Group on Enforced or Involuntary Disappearances. However, it recalls that extra-conventional procedures or mechanisms established by the Human Rights Council to examine and report publicly on human rights situations in specific countries or territories or on cases of widespread human rights violations worldwide do not generally constitute an international procedure of investigation or settlement within the meaning of article 5 (2) (a) of the Optional Protocol.[7] Accordingly, the Committee considers that the

[6] See communication No. 2157/2012, *Belamrania v. Algeria*, Views adopted on 27 October 2016, para. 4.

[7] See, inter alia, communications No. 2098/2011, *Ammari v. Algeria*, Views adopted on 30 October 2014; No. 2026/2011, *Sassene v. Algeria*, Views adopted on 29 October 2014; No. 1791/2008, *Boudjemai v.*

examination of Youcef Khelifati's case by the Working Group on Enforced or Involuntary Disappearances does not render the communication inadmissible under this provision.

5.3 Regarding the exhaustion of domestic remedies, the Committee recalls that the State party has a duty not only to carry out thorough investigations of alleged violations of human rights brought to the attention of its authorities, particularly violations of the right to life, but also to prosecute, try and punish anyone held to be responsible for such violations.[8] Although the family of Youcef Khelifati brought his disappearance to the attention of the competent authorities on many occasions, the State party failed to conduct a thorough investigation into this serious allegation. Moreover, the State party has failed to demonstrate that an effective remedy is available given that Order No. 06-01 of 27 February 2006 is still applied despite the Committee's recommendations that it should be brought into line with the Covenant (see CCPR/C/DZA/CO/3, paras. 7, 8 and 13). The Committee is also concerned that, in spite of three reminders having been addressed to the State party, no information or observations on the admissibility or merits of the communication have been received. In the circumstances, the Committee finds that it is not precluded from considering the communication under article 5 (2) (b) of the Optional Protocol.

5.4 The Committee notes that the author claims a violation of article 2 (2) of the Covenant in respect of his rights and those of Youcef Khelifati. The Committee recalls that the provisions of article 2 of the Covenant lay down general obligations for States parties which cannot give rise, when invoked separately, to a claim in a communication.[9] This part of the communication is therefore inadmissible under article 3 of the Optional Protocol.

5.5 The Committee considers that the allegations, which raise issues under articles 6, 7, 9, 10, 16, read alone and in conjunction with article 2 (3), of the Covenant have been sufficiently substantiated and that there are no obstacles to admissibility. The Committee therefore proceeds to the consideration of these allegations on the merits.

Consideration of the merits

6.1 The Human Rights Committee has considered the present communication in the light of all the information made available to it, as required under article 5 (1) of the Optional Protocol. It notes that the State party has not replied to the author's allegations, to which, in the circumstances, due weight must be given insofar as they have been sufficiently substantiated.

6.2 The Committee notes the author's claim that, on 20 June 1994, Youcef Khelifati was arrested by uniformed police officers from the anti-terrorist squad in front of witnesses. His family has been without news of the victim since then, despite its repeated applications to the administrative authorities and the courts (see paras. 2.8 ff.) since the day of his disappearance.

6.3 The Committee further notes the reprisals against Youcef Khelifati's family for having sought to shed light on the circumstances of his disappearance. Referring to its jurisprudence,[10] the Committee recalls that the State party cannot apply the provisions of the Charter for Peace and National Reconciliation to persons who invoke the provisions of the Covenant or who have submitted or may submit communications to the Committee. The Covenant requires the State party to show concern for the fate of every person and to treat everyone in a manner that respects the inherent dignity of the human person. The Committee also recalls that, since the amendments recommended by the Committee have not been introduced, Order No. 06-01 contributes to impunity in the present case and therefore cannot, as it currently stands, be considered compatible with the provisions of the Covenant.

6.4 The Committee further recalls that, according to its jurisprudence, the burden of proof cannot rest solely with the authors of a communication, especially when the authors and the

Algeria, Views adopted on 22 March 2013, para. 7.2; No. 1779/2008, *Mezine v. Algeria*, Views adopted on 25 October 2012, para. 7.2; and *Djebrouni v. Algeria*, para 7.2.

[8] See, for example, communications, *Boudjemai v. Algeria*, para. 7.4.

[9] See, inter alia, communication No. 2259/2013, *El Boathi v. Algeria*, Views adopted on 17 March 2017, para. 6.4.

[10] See, inter alia, communications, *Belamrania v. Algeria*; *Mezine v. Algeria*, para. 8.2; *Berzig v. Algeria*, para. 8.2; and *Boudjemai v. Algeria*, para. 8.2.

State party do not have equal access to the evidence and when the State party is often in sole possession of the relevant information, such as information related to the arrest and disappearance of Youcef Khelifati.[11] The Committee notes that the State party has not provided any facts to clarify the fate of the victim even though he was seen for the last time in the hands of regular officers of the national police on 20 June 1994. Despite the author's persistent enquiries, no authority has confirmed where Youcef Khelifati is being held or officially established the exact circumstances of his possible death. The vague, indirect and brief piece of information passed on by the National Human Rights Observatory on 11 October 1994 to the effect that Youcef Khelifati was reportedly killed by the security forces in July 1994 (para. 2.6) did not lead to an investigation or the return of his body to the family. The Committee recalls that, in cases of enforced disappearance, the deprivation of liberty, followed by a refusal to acknowledge that deprivation of liberty or by concealment of the fate of the disappeared person, in effect denies that person the protection of the law and places his or her life at serious and constant risk, for which the State is accountable.[12] Given the many years since Youcef Khelifati's disappearance and the information received regarding his execution, it is very likely that he was the victim of a summary execution or that he died in detention, and the State party clearly failed to meet its obligation to protect his life. The Committee concludes that article 6 (1) of the Covenant was violated.

6.5 The Committee acknowledges the degree of suffering caused by being detained without contact with the outside world for an indefinite period. It recalls its general comment No. 20 (1992) on the prohibition of torture, or other cruel, inhuman or degrading treatment or punishment, in which it recommends that States parties take steps to prohibit incommunicado detention. It notes, in the present case, that the author and Youcef Khelifati's family have never received any information on his fate or place of detention. In the absence of any explanation from the State party, the Committee considers that this disappearance constitutes a violation of article 7 of the Covenant with regard to Youcef Khelifati.[13]

6.6 In the light of the foregoing, the Committee will not consider separately the claims in relation to the violation of article 10 of the Covenant.[14]

6.7 The Committee takes note of the anguish and distress caused to the author and his family by the disappearance of his son. It also takes note of the author's allegation that his second son, Mohamed Khelifati, Youcef Khelifati's younger brother, was subjected to reprisals in the form of arrests, prosecution, violence and threats by army personnel. The Committee notes that the State party has not refuted this information and considers that the facts before it disclose a violation of article 7, read alone and in conjunction with article 2 (3) of the Covenant, with regard to the author and his family.[15]

6.8 Regarding the claims of a violation of article 9, the Committee notes the author's allegations that Youcef Khelifati was arbitrarily arrested without a warrant and was not charged or brought before a judicial authority where he could have challenged the legality of his detention. In the absence of any information from the State party in that regard, the Committee considers that due weight must be given to the author's allegations[16] and finds a violation of article 9 with regard to Youcef Khelifati.[17]

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[11] See, for example, communication No. 888/1999, *Telitsin v. Russian Federation*, Views adopted on 29 March 2004, paras. 7.5 and 7.6. See also communication No. 1832/2008, *Al Khazmi v. Libya*, Views adopted on 18 July 2013, para. 8.2.

[12] See communications, *El Boathi v. Algeria*, para. 7.5; No. 2117/2011, *Louddi v. Algeria*, Views adopted on 30 October 2014, para. 7.4; *Mezine v. Algeria*, para. 8.4; and *Boudjemai v. Algeria*, para. 8.4.

[13] See communications, *Ammari v. Algeria*, para. 8.5; *Mezine v. Algeria*, para. 8.5; *Khirani v. Algeria*, para. 7.5; *Djebrouni v. Algeria*, para. 8.5; and No.1295/2004, *El Alwani v. Libyan Arab Jamahiriya*, Views adopted on 11 July 2007, para. 6.5.

[14] See *Ammari v. Algeria*, para. 8.6.

[15] See communications, *Mezine v. Algeria*, para. 8.6; *Khirani v. Algeria*, para. 7.6; *Djebrouni v. Algeria*, para. 8.6; No. 1640/2007, *El Abani v. Libyan Arab Jamahiriya*, Views adopted on 26 July 2010, para. 7.5; and No. 1422/2005, *El Hassy v. Libyan Arab Jamahiriya*, Views adopted on 24 October 2007, para. 6.11.

[16] See communication No. 2297/2013, *Chani v. Algeria*, Views adopted on 11 March 2016, para. 7.5.

[17] See, inter alia, *El Boathi v. Algeria*, para. 7.9; *Mezine v. Algeria*, para. 8.7; *Khirani v. Algeria*, para. 7.7; and *Djebrouni v. Algeria*, para. 8.7.

6.9 The Committee is of the view that the intentional removal of a person from the protection of the law constitutes a refusal of the right to recognition as a person before the law, in particular if the efforts of the victim's relatives to obtain access to effective remedies have been systematically impeded.[18] In the present case, the Committee notes that the State party has not furnished any convincing explanation concerning the fate or whereabouts of Youcef Khelifati despite the multiple requests addressed to the State party by the author. The Committee finds that Youcef Khelifati's enforced disappearance more than 23 years ago denied him the protection of the law and deprived him of the right to recognition as a person before the law, in violation of article 16 of the Covenant.

6.10 The author invokes article 2 (3) of the Covenant, which requires States parties to ensure that individuals have accessible, effective and enforceable remedies for asserting the rights recognized in the Covenant. The Committee recalls the importance it attaches to the establishment by States parties of appropriate judicial and administrative mechanisms for addressing complaints of violations of the rights guaranteed under the Covenant.[19] It recalls its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, which states that a failure by a State party to investigate allegations of violations could, in itself, give rise to a separate breach of the Covenant. In this case, the family of Youcef Khelifati brought his disappearance to the attention of the competent authorities, including the prosecutor general of the Algiers Court of Justice and the public prosecutor at the Dellys Court, but no action was taken on the complaints, and the State party has failed to conduct a thorough and impartial investigation into the disappearance. At first, the authorities denied the victim's arrest (para. 2.3), but the author later received a report from an indirect source that Youcef Khelifati had allegedly been shot dead by the security forces in July 1994 (para. 2.6), without any investigation being carried out or the body being returned to the family. The Committee notes that, instead of carrying out an investigation, the State party hounded the author so that he would apply for a declaration of his son's death and bring his efforts to establish the truth about his fate and obtain justice to an end. Furthermore, the legal impossibility of applying to a judicial body since the promulgation of Order No. 06-01 on the implementation of the Charter for Peace and National Reconciliation continues to deprive the author and his family of any access to an effective remedy given that the Order prohibits using the justice system to shed light on the worst offences, including enforced disappearance (see CCPR/C/DZA/CO/3, para. 7). The Committee finds that the facts before it reveal a violation of article 2 (3), read in conjunction with articles 6 (1), 7, 9 and 16, with regard to Youcef Khelifati, and of article 2 (3), read in conjunction with article 7, with regard to the author and his family.

7. The Human Rights Committee, acting under article 5 (4) of the Optional Protocol, finds that the information before it discloses a violation by the State party of articles 6 (1), 7, 9 and 16 of the Covenant, and of article 2 (3) read in conjunction with articles 6 (1), 7, 9 and 16, with regard to Youcef Khelifati. It also finds a violation by the State party of article 7, read in conjunction with article 2 (3), with regard to the author and his family.

8. In accordance with article 2 (3) (a) of the Covenant, the State party is under an obligation to provide the author with an effective remedy. This provision requires that States parties make full reparation to individuals whose Covenant rights have been violated. In the present case, the State party is obliged, inter alia, to: (a) conduct a thorough and impartial investigation into the disappearance of Youcef Khelifati and provide the author and his family with detailed information about the results of its investigation; (b) release Youcef Khelifati immediately if he is still being held incommunicado; (c) in the event that he is deceased, return his remains to his family; (d) prosecute, try and punish those responsible for the violations that have been committed; (e) provide adequate compensation to the author for the violations perpetrated against him, and to Youcef Khelifati, if he is alive; and (f) provide appropriate satisfaction for the author and his family. Notwithstanding the terms of Order No. 06-01, the State party should ensure that it does not impede enjoyment of the right to an

[18] See communications No. 2164/2012, *Basnet v. Nepal*, Views adopted on 12 July 2016, para. 10.9; No. 2038/2011, *Tharu et al. v. Nepal*, Views adopted on 3 July 2015, para. 10.9; and No. 2134/2012, *Serna et al. v. Colombia*, Views adopted on 9 July 2015, para. 9.5.

[19] See communication No. 2132/2012, *Kerroune v. Algeria*, Views adopted on 30 October 2014, para. 7.11.

effective remedy for crimes such as torture, extrajudicial killings and enforced disappearances. It is also under an obligation to take steps to prevent similar violations in the future. To that end, the Committee is of the view that the State party should review its legislation in the light of its obligation under article 2 (2) and, in particular, reconsider Order No. 06-01 to ensure that the rights enshrined in the Covenant can be enjoyed fully in the State party.

9. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether or not there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy when a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the present Views and to have them widely disseminated in the official languages of the State party.